NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re R.C., a Person Coming Under the Juvenile Court Law.	
THE PEOPLE, Plaintiff and Respondent, v. R.C., Defendant and Appellant.	F065289 (Super. Ct. No. JJD065739) **OPINION**

THE COURT[*]

APPEAL from a judgment of the Superior Court of Tulare County. Juliet L. Boccone, Judge.

Hassan Gorguinpour, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Michael A. Canzoneri, Charles A. French and Daniel Bernstein, Deputy Attorneys General, for Plaintiff and Respondent.

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[*] Before Kane, Acting P.J., Franson, J., and Peña, J.

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The juvenile court found true the allegation that R.C., age 12, committed two separate lewd acts upon a child (Pen. Code, § 288, subd. (a))[1] in March of 2011. R.C. was declared a ward of the court and ordered to reside in the custody of his father and under the supervision of the probation officer.

On appeal, R.C. challenges the admission of his confession into evidence and the sufficiency of the evidence to support the juvenile court's true findings of section 288, subdivision (a). He also contends that the juvenile court violated his constitutional right to due process when it found he violated section 288 without substantial evidence of intent. We disagree and affirm.

STATEMENT OF THE FACTS

R.C. was born in January of 1999 and spent the first five years with his parents. When his parents separated, R.C. and his sister lived with their mother, who abused drugs and alcohol and often left the children unattended so that she could gamble at a local casino. When R.C. was around seven years old, he was removed from mother's custody and placed with his father, who lived on an Indian Reservation. R.C. had academic and behavioral problems and was suspended from school several times.

In March of 2011, R.C.'s father's girlfriend brought her two children to the house, a nine-year-old boy, A., and a six-year-old girl, J. One evening, the children were in the living room watching a movie while the adults were in the bedroom. During the movie, the girlfriend returned to the living room and saw R.C. and J. together on the sofa under a blanket. The girlfriend pulled off the blanket and saw both R.C. and J. pulling up their pants. The girlfriend yelled at the children, went to wake up R.C.'s father, and told her two children to get into the car. Both R.C. and J. told her that J. was only adjusting her

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[1] All further statutory references are to the Penal Code.

underwear. R.C. also told her that they were playing a game called "Truth or Dare," a game where someone dares another to do something and the act must be done.

During the investigation that followed, J. claimed that R.C. had initiated the game and dared J. to do "really nasty things." This included R.C. touching her with his penis and inserting it into her vagina and anus. J. claimed this happened twice, once at a public park near R.C.'s house and the second time when they were discovered in the living room.

Soon after the allegations, a detective named Ronna Brewer came to R.C.'s home to speak to him. When she arrived, she gave R.C.'s father the option to be present, but also told him R.C. "might be more comfortable" talking about the sexual allegations without him in the room. Father left the room, but was still within earshot.

A recording of the interview was played at the hearing. In the interview, Brewer spoke to R.C., first reminding him that he had committed a crime. Brewer told R.C. that she first had to do "official stuff," like advise him of things like he had seen "on TV." Brewer explained to R.C. that he was "not under arrest. I'm not taking you with me. I am not putting handcuffs on you …." She explained that they were just going to "have a nice chat and then I'm gonna go about my business," but that she "ha[d] to read this to you regardless, ok?" Brewer then advised R.C. of his *Miranda*[2] rights, which R.C. stated he understood.

Brewer then asked R.C. about his school and grade level. At times, she referred to him as "honey" when she could not understand his voice: "I'm sorry, honey." A short time later, the investigator had to ask R.C. to "move your lips when you talk" because she could not make out his words.

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[2] *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*).

Brewer then questioned R.C. on whether he understood the difference between right and wrong. When he said that he did, Brewer asked him to give her an example of something right, he responded "think twice before you do something." Brewer asked what happens if you do something wrong. R.C. said "[y]ou might get in trouble."

When asked about the allegations against him, R.C. acknowledged that he had played Truth or Dare with J. and her brother on two occasions: once in the park and the second time on the couch. Brewer told R.C. not to be embarrassed in giving her details because "you're not gonna be telling me anything that's gonna shock me …."

R.C. then told Brewer that, at the park, J. dared R.C. to kiss her "middle part." When asked to explain what he was referring to, he said "between the legs," which was used for "[p]eeing, pooping" and "for having intercourse." When asked what he called female genitalia, R.C. said "vagina." R.C. said that he did not enjoy it when J. kissed his penis because it felt awkward and he was not excited by it. He said that A. then dared him to put his penis in J.'s vagina, but he could not accomplish that because she was too short. Instead, he inserted his finger into her vagina and pulled it out quickly when J. moved away.

While describing this scene, Brewer told him:

> "Ok, honey, calm down. It's ok. Take a deep breath. It's ok. Breathe. Breathe. Breathe. It's gonna be ok. It'll be ok. You're really embarrassed about this, huh?"

Brewer mentioned that R.C.'s dad was dating J.'s mom, to which R.C. said, "[w]ell, not anymore." Brewer said "don't worry about that." Brewer then explained that R.C. should not have touched J., stating "[Y]ou don't do that stuff.… [¶] … [¶] [Y]ou don't do that with your sister or step-sister, definitely not.… You know, you gotta save some things 'til you get bigger otherwise you're gonna take all the fun out of life…."

Brewer then asked if that was all that had taken place at the park. When R.C. said it was, Brewer then asked him about the incident in the living room. According to R.C., they were lying on the couch under a blanket when J. dared him to touch her vagina. He briefly inserted his finger and pulled it back out. He also rubbed his penis against her, but did not know why he did it.

Brewer asked R.C. if anyone had ever touched him inappropriately and he said no. When asked if he knew it was wrong to touch J., R.C. said that he did, but he did not think they would get caught. When asked if he "[p]ositively … knew" it was wrong, he again said, "Yes, I didn't know why I did." Brewer again asked him if he knew it was only wrong "right now" because of his age. R.C. said, "Yes." Brewer then said "[y]ou realize when you turn 18 …." and R.C. said " … you're gonna jail."

When asked how he knew it was wrong, R.C. said that no one had ever told him it was wrong, but he knew it was wrong because J.'s mother threatened to call the police on him after it happened. Brewer again asked if he knew it was wrong before he did it or whether anyone had ever taught him that it was wrong. R.C. said that his father watched the television show CSI, so he "kinda knew."

Brewer told R.C. that she did not want him to think that people were picking on him, but that she was scared someone had touched him and she wanted to check on that. R.C. told Brewer that someone had come to his house and called him a child molester. According to R.C., J. told her sister what happened and then she told the people at school. Brewer told R.C. he was not a child molester and concluded the questioning.

At trial, the prosecution introduced a taped statement by J. and also had her testify in person. J. testified that she played Truth or Dare with R.C. and her brother, but she was not sure which of the two taught her to play the game. J. said that R.C. "always" dared her to do "nasty stuff." According to J., R.C. was the only one that did the daring when they played the game. During the game at the park, R.C. touched her on her vagina

and butt. They then moved to an area where there were not many other people, he pulled both their pants down and touched her vagina. During the taped interview, J. said that R.C. inserted his penis in her anus and neither of them moved. She then told him to stop and he did.

In the taped interview, J. said that the second incident took place shortly after the first. R.C., J., and A. were together at R.C.'s father's house watching a movie. R.C. and J. were together under a blanket on the sofa and started to play Truth or Dare. R.C. dared J. to let him put his penis in her anus. He also inserted it into her vagina. When she told him to stop, he did. R.C.'s penis was not "hard" and nothing came out of it. J.'s mother came into the room and they started to pull up their pants. According to J., R.C. lied to her mother, telling her that J. had dared him to do this. J. also claimed that, at some point, R.C. told her not to tell anyone what had happened.

At trial, J. testified that during the second incident, R.C. touched her vagina and butt with his penis. Her mother then came into the room and pulled the blanket off and then put her in the car and took her away. J. explained to her mother about the game they were playing.

A. testified that he did not remember what his involvement was in the game, but he remembered R.C. daring himself to touch J. between her legs. R.C. touched J. with both his hand and his private part. A. did not see the second incident because he was asleep. He said that, at the time of the game, he did not know that it was wrong.

The prosecutor introduced R.C.'s statement to Brewer into evidence.

Defense Case

The defense called licensed clinical social worker Timothy Zavala, the clinical director of Tulare Youth Services Bureau, a children's mental health clinic, to testify. Zavala's primary area of work was in determining the risk for an adolescent or adult who has committed a sexual offense to commit another such offense in the future. Part of his

analysis was also a psychosexual assessment, which looked into an individual's knowledge of sex, how he learned about it, and what his thoughts about sexuality were.

Zavala read all of the reports about R.C., spoke to him, and conducted a series of collateral interviews. Zavala opined that R.C. was immature for someone his age, lacked social skills and was naive about sex and sexuality. Although he had had a sex education class at some point in the past, R.C. had gained most of his knowledge about sex by overhearing conversations and watching television. R.C. said he had girlfriends but did not have any sexual experience with them.

Zavala found it significant that R.C., at age 6 or 7, had witnessed an incident involving his mother having sex with a boyfriend. According to Zavala, when a young child is exposed to sex, there is a "level of sexualization" that occurs. Zavala explained that the child cannot process or understand what he has seen, and the exposure could blur appropriate boundaries and confuse the child's sense of right and wrong touching.

Given a hypothetical resembling the incident at the park, Zavala explained that it was possible R.C. could confuse boundaries in that situation. Zavala noted there was no evidence of a sexual statement. According to Zavala, without such statement and without evidence of a physiological response, there was no way to conclude that the child even knew what sexual arousal was, let alone that he acted with sexual arousal in mind.

Regarding the second incident, Zavala explained that it appeared the game had by then become "normalized" and the children engaged in it like it was "not a big deal." Zavala again noted the absence of sexual arousal or sexual purpose.

When asked on cross-examination whether R.C. might nonetheless have understood sexual boundaries and the wrongfulness of his actions, Zavala acknowledged that it was possible. But he also pointed out that children engage in "what we consider sexual touching all the time," out of exploration or curiosity. Or they do it because they are processing something that they have seen or heard or has happened to them. Zavala

stated that "most of the time they're engaging in those activities for reasons other than sexual arousal."

In the middle of closing argument, the juvenile court put the proceedings on hold and ordered the parties to provide further briefing on R.C.'s specific intent, "the arousal factor." After receiving further briefing and argument, the juvenile court found that R.C. had the required intent and it sustained the petition.

DISCUSSION

I. ADMISSION OF R.C.'S STATEMENT TO LAW ENFORCEMENT

R.C. contends his confession was coerced. We have reviewed the recording and examined the transcript. After considering the totality of the circumstances, we conclude that the confession was voluntary.

Background

As mentioned, Brewer advised R.C. of his *Miranda* rights before she questioned him, and R.C. indicated that he understood those rights. In reading R.C. his rights, Brewer asked R.C. if he understood them and whether he wanted to speak to her. He agreed that he did. Brewer asked if R.C. "completely" understood what she had told him, if he knew what a lawyer was, and if he understood that he did not have to talk to her. He said he did to each question. She also asked if he understood that anything he told her would go into a report and given to the court. He said he did.

Court's Ruling

At the hearing, defense counsel argued that, while Brewer advised R.C. of his rights, "he was not really understanding his rights." Counsel listed a number of factors suggesting that R.C. did not make a knowing and voluntary waiver of his rights: his age; his lack of experience with "the system" and law enforcement; his family background; his intelligence and education; and his emotional state, as evidenced by the fact that he

started to cry during the interview. Counsel argued that R.C. did not understand the implications of what he was saying.

The juvenile court found that R.C. understood and waived his *Miranda* rights, stating:

> "Counsel, I believe the *Miranda* requires that they be given notice, the requirements that they acknowledge that he did. That he obviously understand English. I can think of very few people who you give a statement pursuant to *Miranda,* who aren't upset or emotional or nervous. Just about everybody across the board, whether they are a child or whether they are an adult, is in that situation.
>
> "I don't think *Miranda* prevents people from giving a statement when they are upset, certainly. I think the *Miranda* is specifically targeted to make sure that they are advised. And that is it. And this officer did do that, so I'm going to deny your request that it be suppressed." (Italics added.)

Standard of Review

"On appeal, a reviewing court looks at the evidence independently to determine whether a defendant's confession was voluntary, but will uphold the trial court's findings of the circumstances surrounding the confession if supported by substantial evidence. [Citations.] However, if there is conflicting testimony on whether a defendant waived his *Miranda* rights, 'we must accept that version of events which is most favorable to the People, to the extent that it is supported by the record.' [Citation.]" (*People v. Lewis* (2001) 26 Cal.4th 334, 383-384.) The prosecution bears the burden of establishing a valid *Miranda* waiver by a preponderance of the evidence. (*In re Bonnie H.* (1997) 56 Cal.App.4th 563, 577.)

Applicable Law and Analysis

In order for a confession to be admissible as evidence, the confession must have been made voluntarily and without coercion. (*Jackson v. Denno* (1964) 378 U.S. 368, 385-386; *People v. Benson* (1990) 52 Cal.3d 754, 778.) Admitting an involuntary

confession as evidence against a defendant violates a defendant's due process rights under both the California and United States Constitutions. (*Jackson v. Denno, supra,* at pp. 385-386; *People v. Berve* (1958) 51 Cal.2d 286, 290, overruled on other grounds in *People v. Cahill* (1993) 5 Cal.4th 478, 509.) Use of such confession in a criminal prosecution is prohibited because "it offends 'the community's sense of fair play and decency' to convict a defendant by evidence extorted from him …." (*People v. Atchley* (1959) 53 Cal.2d 160, 170.)

A confession is involuntary if an individual's will was overborne. (*Rogers v. Richmond* (1961) 365 U.S. 534, 544; *People v. Sanchez* (1969) 70 Cal.2d 562, 572; *In re J. Clyde K.* (1987) 192 Cal.App.3d 710, 720, overruled on other grounds in *People v. Badgett* (1995) 10 Cal.4th 330, 350.) A coerced confession is not "the product of a rational intellect and a free will …." (*Blackburn v. Alabama* (1960) 361 U.S. 199, 208.)

In deciding if a defendant's will was overborne, courts examine "all the surrounding circumstances – both the characteristics of the accused and the details of the interrogation." (*Schneckloth v. Bustamonte* (1973) 412 U.S. 218, 226; *People v. Benson, supra,* 52 Cal.3d 754, 779.) A minor can waive his *Miranda* rights. (*People v. Lara* (1967) 67 Cal.2d 365, 389-391.) Whether a valid waiver occurred turns on a number of circumstances including: the minor's age; the minor's intelligence, education, experience, and ability to comprehend the meaning and effect of the *Miranda* warning; the nature of the minor's Fifth Amendment rights; and the consequences of waiving them. (*People v. Lara, supra,* at pp. 382-383; *People v. Nelson* (2012) 53 Cal.4th 367, 378; *People v. Lewis* (2001) 26 Cal.4th 334, 383.) The minor's age is a factor because children will often feel pressured to submit to police questioning when an adult in the same circumstances will feel free to leave. (*J.D.B. v. North Carolina* (2011) ___U.S. ___, 131 S.Ct. 2394, 2398, 2403.) We thus carefully scrutinize any purported waiver of a minor's

right against self-incrimination to ensure it was voluntary, intelligent, and knowledgeable. (See *In re Michael B.* (1983) 149 Cal.App.3d 1073, 1083.)

Details of the interrogation may prove significant in deciding whether a defendant's will was overborne. For example, courts may consider whether the police lied to the defendant. "While the use of deception or communication of false information to a suspect does not alone render a resulting statement involuntary [citation], such deception is a factor which weighs against a finding of voluntariness [citations]." (*People v. Hogan* (1982) 31 Cal.3d 815, 840-841, overruled on other grounds in *People v. Cooper* (1991) 53 Cal.3d 771, 836.) A lie told to a detainee regarding an important aspect of his case can affect the voluntariness of a confession or admission. (*People v. Engert* (1987) 193 Cal.App.3d 1518, 1524.)

R.C. contends that, while he was informed of his rights in keeping with *Miranda*, he did not give his statement voluntarily. R.C. argues instead that he was "an insecure and immature boy" who was abused and neglected by his mother. He argues that Brewer first separated him from his father, and then portrayed herself as his guardian and downplayed the interview as consisting of nothing more than a "'nice chat'" and assuring him that she would not arrest, handcuff, or take him away.

We find that the juvenile court did not err in concluding that R.C. voluntarily, intelligently, and knowledgeably waived his *Miranda* rights. At the time he was questioned, R.C. was 12 years old. He did not have prior contact with the police. Although he claims he was the victim of abuse and neglect when he was in his mother's home, R.C. fails to demonstrate that these past events affected his ability to ask for an attorney or decline to speak with Brewer.

Brewer testified that she gave R.C.'s father the option of being present during the interview, but told him R.C. may be more comfortable talking without him in the room. R.C.'s father chose to step out of the room, but as noted by Brewer, the house was not

very big, so he remained "within earshot." Our review of the interview shows that Brewer was gentle and respectful toward R.C. while making it clear that he could obtain an attorney and that he did not need to speak to her at all. The fact that R.C. cried during a portion of the interview or that Brewer called him "honey" does not change our perception.

R.C. relies on *People v. Honeycutt* (1977) 20 Cal.3d 150, for the proposition that Brewer's tactics were coercive. In *Honeycutt,* the defendant was taken into custody as a suspect in a homicide. The questioner engaged in a half-hour unrecorded conversation, wherein the two discussed unrelated past events and former acquaintances, finally turning to conversation of the victim of the homicide. Three hours after his arrest, defendant was first advised of his *Miranda* rights, and then provided a confession to the homicide. The court found this "clever softening-up" of the defendant through pre-advisement ingratiating conversation and disparagement of the victim, which resulted in defendant's agreement to talk prior to being advised of his rights, rendering his post-advisement confession involuntary. (*People v. Honeycutt, supra*, at pp. 160-161.)

No such tactics occurred here. Brewer did not engage in small talk with R.C. other than to introduce herself, ask R.C. his age, how he spells his last name, and his date of birth. She then told R.C. that she was required to read him his rights and then immediately did so.

R.C. also relies on *In re Shawn D.* (1993) 20 Cal.App.4th 200, for the proposition that Brewer used deception to obtain his statement. In *In re Shawn D.*, the court found the juvenile's confession to burglary involuntary after the police "repeatedly suggested that [he] would be treated more leniently if he confessed." (*Id.* at p. 214.) The juvenile was told that his honesty would be noted in the police report and that he would receive more lenient treatment if he "explained" his role in the robbery. The officers also implied

that if he confessed to and helped recover the proceeds of the burglary, they would intervene on his behalf with the prosecutor. The court stated:

> "[T]his is not a case where there was merely one isolated instance in which the police implied that [defendant] would benefit from confessing. Rather, the officer continually raised this theme- from the very beginning of the interrogation – to the comments about helping the police get the property back – to the statements about [defendant] being able to see his girlfriend and baby – to the hypothetical about the bank robber – to [the officer's] statement that, 'Seriously, you help us get the stuff back and I will personally talk to the D.A. or persons who do the juvenile.' The promise of leniency in exchange for a confession permeated the entire interrogation." (*In re Shawn D., supra,* 20 Cal.App.4th at p. 216.)

R.C. points to comments made by Brewer which he claims were deceptive: her words to him that he calm down and breathe; her acknowledgement that he was embarrassed when he explained what he had done; and her words to him that his actions were better saved for when he was older. But when read in context with the entire interview, we cannot conclude that R.C. made the incriminating statements based on Brewer's empathetic comments. There is no suggestion of any benefit to R.C. in exchange for his cooperation.

The voluntariness of a confession or a waiver of constitutional rights is tested by "'the totality of all the surrounding circumstances - both the characteristics of the accused and the details of the interrogation.' [Citations.]" (*People v. Hill* (1992) 3 Cal.4th 959, 981, overruled on other grounds in *Price v. Superior Court* (2001) 25 Cal.4th 1046, 1069, fn. 13.) Accordingly, we find R.C.'s statement to Brewer was voluntarily given and properly admitted into evidence.

II. SUFFICIENCY OF THE EVIDENCE OF SECTION 288, SUBDIVISION (a)

R.C. asserts that the People failed to present substantial evidence supporting a finding beyond a reasonable doubt that, in touching J., he had the requisite intent to obtain sexual gratification. We disagree.

Standard of Review

"In assessing a claim of insufficiency of evidence, the reviewing court's task is to review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence – that is, evidence that is reasonable, credible, and of solid value – such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt." (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.) Reversal of a conviction for insufficient evidence "is unwarranted unless it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].' [Citation.]" (*People v. Bolin* (1998) 18 Cal.4th 297, 331.) These principles are equally applicable to a review on appeal of the sufficiency of the evidence in a juvenile proceeding in which the minor is alleged to have violated a criminal statute. (*In re Roderick P.* (1972) 7 Cal.3d 801, 809.)

Applicable Law and Analysis

Section 288 imposes felony liability upon "any person who willfully and lewdly commit any lewd or lascivious act … upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child …." (§ 288, subd. (a).) Criminal liability under section 288 does not depend on proof that the accused touched an intimate body part of the minor; rather, "section 288 is violated by 'any touching' of an underage child accomplished with the intent of arousing the sexual desires of either the perpetrator or the child." (*People v. Martinez* (1995) 11 Cal.4th 434, 452.)

To determine whether a perpetrator touched his or her victim with the specific intent to obtain sexual gratification, the trier of fact looks to all the circumstances to infer the perpetrator's intent, which generally is incapable of proof by direct evidence. (*People v. Martinez, supra*, 11 Cal.4th at p. 445; *In re Jerry M.* (1997) 59 Cal.App.4th 289, 295

(*Jerry M.*).) Factors relevant to discerning the perpetrator's intent include the manner of the touching that occurs, any deceit used to avoid detection, extrajudicial statements made by the perpetrator, and the relationship of the perpetrator and the victim. (*People v. Martinez, supra,* at p. 445.) The trier of fact may also take into account "the presence or absence of any nonsexual purpose" for the contact. (*Id.* at p. 450, fn. 16.)

R.C. cites *Jerry M., supra,* 59 Cal.App.4th 289, to show that he did not act with the intent to gratify himself sexually. In *Jerry M.*, 11-year-old Jerry touched the breasts of three young girls. Twelve-year-old Clair was with friends when Jerry approached the group and squeezed Clair's breasts through her shirt. (*Id.* at p. 294.) A month later, he refused to return Clair's bike unless she showed him her breasts, which she ultimately did. While another girl, Stephanie, was standing near her apartment complex mailboxes, Jerry touched her breasts, saying that they "'grew'" and felt "'good.'" (*Ibid.*) Jerry was charged with four violations of section 288, subdivision (a).

Relying largely on Jerry's age (11) and his prepubescence, *Jerry M.* found that the minor lacked the specific intent to sexually arouse himself. (*Jerry M., supra,* 59 Cal.App.4th at p. 300.) The court also found relevant that the victims knew Jerry and that his conduct was public, occurring in daytime and in the presence of others, thus there was no attempt or opportunity to avoid detection. No clandestine activity occurred and the minor did not warn the girls not to tell anyone what happened. The minor's touching was momentary, without caress or an attempt to prolong the touching. The court concluded that "Jerry was a brazen 11-year-old whose conduct was more consistent with an intent to annoy and obtain attention than with sexual arousal." (*Ibid.*)

The sentiment underlying *Jerry M.* was that the natural, normal curiosity of a prepubescent child, even if inappropriately expressed, should not be criminalized. But several factors distinguish Jerry's prepubescent curiosity from what R.C., age 12, did to J. Unlike Jerry, who touched the girls in public without attempting to avoid detection, R.C.

touched J. in a secluded area of a park, specifically moving to a location where there were less people, and under a blanket when adults were not in the room. The manner of the touching – pulling both her pants down as well as his own, touching and/or inserting his penis in her vagina and anus, and inserting his finger into her vagina – is itself suggestive of a lewd motive. According to J., R.C. told her at one point not to tell anyone what had happened. He also lied when confronted by J.'s mother. (See, e.g., *In re Randy S.* (1999) 76 Cal.App.4th 400, 407 [minor's intent to sexually arouse himself by touching his stepsister inferred in part from the fact that he sought to hide his conduct].) Furthermore, no evidence of an innocent purpose for this contact was presented. Finally, appellant admitted to the investigator that he knew his acts were wrong at the time he did them.

As stated by our Supreme Court in *People v. Martinez, supra,* 11 Cal.4th at page 452, "[T]he circumstances of the touching remain highly relevant to a section 288 violation. The trier of fact must find a union of act and sexual intent [citation], and such intent must be inferred from all the circumstances beyond a reasonable doubt." Although R.C. may only have been experimenting sexually, his actions clearly evidenced an intent to sexually stimulate himself. Accordingly, we conclude there was sufficient evidence that R.C. possessed the requisite intent required under section 288, subdivision (a).

Finally, because we conclude that there was sufficient evidence of R.C.'s sexual intent, we need not address his related argument that he was denied his federal constitutional right to due process.

DISPOSITION

The judgment is affirmed.